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C O N F I D E N T I A L SECTION 01 OF 03 KHARTOUM 001374

SIPDIS

DEPARTMENT FOR AF A/S FRAZER, AF/SPG, SE WILLIAMSON, NSC  
FOR BPITTMAN AND CHUDSON

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SUBJECT: BASHIR TELLS FM "I HAVE DECIDED TO FIGHT ICC TO THE LAST"

REF: A. KHARTOUM 1372  
1B. KHARTOUM 1353

Classified By: CDA Alberto M. Fernandez, reasons 1.4 (b) and (d).

¶11. (C) Summary: Sudanese President Al-Bashir told FM Alor on September 8 that he intends to confront rather than challenge the international community on the International Criminal Court (ICC). He also expressed displeasure with Alor and decided that VP Taha should make his case at UNGA. Deng Alor plans to try one last time in the coming days to convince Al-Bashir that such a path could be potentially disastrous for Sudan. Alor also suggested that the NCP is conspiring to remove Al-Bashir as a liability. End summary.

MFA COUNSELS ENGAGEMENT

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¶12. (C) CDA Fernandez met with Foreign Minister Deng Alor on September 8 to discuss Alor's recent trip to the Netherlands, the just concluded visit of Tanzanian President Kikweti, and internal deliberations within the Government of National Unity (GNU) on how to deal with the ICC crisis. Alor said that the Dutch position had been "no different than that of the rest of the West:" Sudan needs to cooperate with the ICC and there needs to be a clear and urgent Darfur roadmap with an early start of negotiations with rebel movements. The Dutch told Alor that they expected that EU members would seek sanctions on Sudan, if the regime refuses to cooperate with the ICC. They also expressed appreciation of the SPLM's position seeking to "talk sense to the National Congress Party (NCP)" of President Al-Bashir.

¶13. (C) Upon returning to Khartoum, Alor briefed an unhappy Al-Bashir who told him that he was "not surprised by the Dutch position" but he was irritated by Deng's public announcement in Europe that Sudan should cooperate with the ICC. "You are my foreign minister and you have to represent my position," he rebuked Alor. Deng responded that "how can I do that when we are a government of national unity? Your position is not a consensus position." Alor added that he would not be able to defend the regime's current position before UNGA when he leads the Sudanese delegation. Al-Bashir then asked that the MFA come up with a recommendation about what should Sudan's next step be. Alor gathered his staff, including NCP stalwarts Ali Karti and Mutriff Siddiq. While Minister of State for Foreign Affairs Al-Samani al-Wasila, not an NCP member, initially attempted to be "more Catholic than the Pope" in an unaccustomed role as a hardliner, the consensus was for engagement with the ICC and the West. Actual hardliner Ali Karti, Alor's other State Minister, led the charge saying that Sudan "has no choice but to engage, maybe not directly, through a law firm or a third party, but we have to find a way." Alor had taken the recommendation to

the Higher Level Committee for dealing with the crisis (headed by VP Ali Osman Taha) where it had encountered bitter opposition by many, led by Justice Minister Sabdarat, a former communist and opportunist who threw in his lot with the NCP years ago.

THAIS WITHOUT STRINGS

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¶4. (C) Alor then described the background of the just concluded visit of Tanzanian President Kikweti, who had departed Khartoum hours ago. The Sudanese regime had been waiting for the visit with some anticipation because they knew that Kikweti had recently made with President Bush and hoped for a message from the Americans. Al-Bashir briefed the Tanzanian leader at length about what Sudan is doing to bring peace and stability to the country, both in Darfur and the South. Kikweti initially responded by focusing on recent discussions he had had with the Belgians, who had recently chaired the UNSC. Kikweti focused on UNAMID deployment issues: the need for Sudan to cooperate fully, accepting the Thai and Nepalese without conditions, visas, night flights, clearances and customs issues. Al-Bashir responded "all these things have been resolved." Turning to Alor, Al-Bashir asked "isn't that true?" Alor noted that the Thai and Nepalese troops were supposed to come, once Egyptian and Ethiopian units, currently in the pipeline, arrive. Al-Bashir then said "well, let them come without conditions. The Thais and Nepalese can come when they are ready."

¶5. (C) Kikweti then briefly told Al-Bashir about his discussion with President Bush. Kikweti told POTUS that the

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possibility of an ICC indictment of Al-Bashir could be counter-productive to peace and stability in Sudan, and especially in Darfur. The timing may not be the best. President Bush reportedly agreed with Kikweti but added that "if Sudan doesn't cooperate, I'll veto" any effort to defer an ICC indictment at the Security Council. Al-Bashir reportedly laughed, saying "yes, that sounds like Bush." The talk then switched to other matters.

BASHIR WILL FIGHT ICC TO THE END

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¶6. (C) Al-Bashir asked to see his Foreign Minister after Kikweti's departure on the afternoon of September 8 (CDA Fernandez saw Alor right after the Alor-Al-Bashir meeting) at the Sudanese President's private residence. Deng described Al-Bashir as "belligerent" during the 90 minute, sometimes heated discussion. Al-Bashir rejected the MFA's suggestion of engagement out of hand and returned to the idea that Alor cannot or will not defend the regime in international fora. "You are supposed to be answerable to me, I should fire you but I won't." Since Alor cannot defend Sudan's current position at UNGA, VP Ali Osman Taha will lead the delegation and aggressively defend Sudan's position. "We have a strong case and he will make it, and he will lobby the Security Council members, including the Americans." Al-Bashir said that Taha will note that when the UNSC wanted to refer Iraq to the ICC, the US prevented this. "Why is this ok in the case of Iraq and not Sudan?" Alor responded: "Mr. President, you are not the U.S., and in any case, the Americans did not need to use a veto to accomplish this."

¶7. (C) "Deng, I have decided to fight this ICC thing until the end," Al-Bashir responded. We will certainly go for elections in 2009 and I will be re-elected, we will do what can to improve things in Darfur but we will confront this spiderweb of conspiracy." Alor noted that such a strategy could subject Sudan to a lot of trouble and suffering, look at Zimbabwe and what Mugabe had wrought. Al-Bashir said that "Mugabe made enemies internally. I don't intend to do that and will keep my agreements, including the CPA with the SPLM."

¶18. (C) Al-Bashir then waxed philosophically, noting that "he respected that the SPLM was sincere in its position on the ICC". He knew that some of the obsequious "yes men" around him were cheering him on but hoping he would fall. Some neighboring countries expressed their support publicly but privately hoped for his demise. "My honest view is that we have no choice," the President mused. "The powers that be want us to hand over Darfur to the rebels just like we handed over the South to the SPLM, but you actually have a lot of support in the South, the Darfuri rebels have no support whatsoever in Darfur." Al-Bashir said that Sudan will continue to do "what it can" in Darfur with all deliberate speed but, "in any case, there is no time to do enough to satisfy the West."

¶19. (C) Al-Bashir estimated that the rebels have "maybe one percent, no more than 10 percent support in Darfur." In any case the Arabs are the majority in Darfur. Alor countered that the African tribes were the majority in Darfur, especially the Fur. Working himself up, the usually jovial Sudanese strongman asked "this is just so unfair. Is Sudan worse than Zimbabwe, than Congo, than Somalia? All of this is politically motivated. As a leader, I must fight. We will go for elections and the SPLM will win in the South but we will win everywhere else. We are not going to surrender to the ICC."

THE ENEMY WITHIN THE REGIME

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¶10. (C) CDA Fernandez responded that it would be disappointing and tragic if the Sudanese Government did not even make a good faith effort to try to find a way out of this crisis. Since the SE Williamson visit we have been expecting some proposals or ideas along the lines of what Alor discussed internally, albeit with much more specificity and results. No decision about our position at the Security Council has been taken although we see no justification for deferral yet. Alor added that Sudan could do a lot by addressing political and humanitarian demands in Darfur. Issues such as political representation in the capital,

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making Darfur one region, and actual compensation for IDPs and refugees are concrete steps that Sudan could take now. CDA Fernandez agreed that these issues plus UNAMID deployment, cooperation with UN/AU Chief Mediator Bassole, efforts towards an actual ceasefire and a real response to the Kalma massacre are substantive and should be pursued urgently and on their own merits. Alor said that he would make one last effort to sway Al-Bashir from this ill-advised path. Alor will update Charge once that meeting occurs.

¶11. (C) Alor noted that he had spoken recently to opposition leader Mubarak al-Fadel (who is the brother in law of NCP Presidential Advisor Ghazi Salahudin). Ghazi had hinted that some in the NCP are very dissatisfied with Al-Bashir, "he is becoming a liability" and perhaps should be replaced before elections take place. Alor quipped to CDA Fernandez that the SPLM would prefer to "keep Al-Bashir and dump the NCP," Al-Bashir could rule through the Army and the SPLM. "It is the Islamists in the NCP who led him down this path and now they want to dump him. They got rid of their Mullah (Hassan al-Turabi) and now they want to get rid of their General. It won't be easy." He discounted the idea that Al-Bashir would be so bold as to dispense with the NCP at this juncture.

¶12. (C) Comment: Alor's description of Al-Bashir's mood and plans matches what we are hearing from other sources in Sudan that the NCP may have concluded that the price of cooperation with the international community to obtain an ICC deferral may be too high. The regime is likely, as it has done in past crises, to follow a middle path - some defiance but not too

much, mixing brutality in Darfur with some concessions, keeping its options open and letting some issues of concern to the West, such as CPA implementation and perhaps UNAMID deployment run their course. In this scenario, the regime will seek to ride out any possible storms, not panic (although the NCP never would have whispered about replacing Al-Bashir before) and try to see if the international scene will turn in its favor in the near future. This may sound naive but the Al-Bashir regime is the most successful Sudanese Government in history in terms of survival and has weathered numerous crises in the past. They are upping the ante and betting that they can pull it off one more time.

FERNANDEZ